



UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration
Washington, D.C. 20230

OCT 12 2004

Mr. Edmond J. Thomas
Chief
Office of Engineering and Technology
Federal Communications Commission
445 – 12th Street, N.W.
Washington, DC 20554

RE: *MARITEL, INC and MOBEX NETWORK SERVICES, LLC Petitions for Rule Making to Amend the Commission's Rules to Provide Additional Flexibility for AMTS and VHF Public Coast Station Licensees*, Notice of Proposed Rulemaking, WT Docket No. 04-257, FCC 04-171

Dear Mr. Thomas:

The National Telecommunications and Information Administration (NTIA), an Executive Branch agency within the Department of Commerce, manages and authorizes the Federal Government's use of the radio frequency spectrum. The Federal Communications Commission (FCC) recently issued a document via the Federal Register seeking comments and reply comments regarding MARITEL, INC. and MOBEX NETWORK SERVICES, LLC Petitions for Rule Making to Amend the Commission's Rules to Provide Additional Flexibility for AMTS and VHF Public Coast Station Licensees. I hereby forward the attached comments that were submitted by the United States Coast Guard which are supported by NTIA.

NTIA looks forward to working with the FCC on this item. If you have any questions regarding these comments, please contact Gary Patrick, Spectrum Engineering and Analysis Division, of my staff at (202) 482-9132.

Sincerely,

Fredrick R. Wentland
Associate Administrator
Office of Spectrum Management

Enclosure

U.S. Department of
Homeland Security

United States
Coast Guard



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October 12, 2004

Mr. Fredrick Wentland
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Washington, D.C. 20230

SUBJECT: FCC WT Docket No. 04-257, MariTEL, Inc. and Mobex Network Services, LLC, Petitions for Rule Making to Amend the Commission's Rules to Provide Additional Flexibility for AMTS and VHF Public Coast Station Licensees

Dear Mr. Wentland:

The United States Coast Guard respectfully requests that you submit the following Comments to the Federal Communications Commission ("FCC" or "Commission") in response to the Notice of Proposed Rule Making issued in the above-referenced matter (69 *Fed. Reg.* 48440 (Aug. 10, 2004)) relating to requests by MariTEL, Inc. ("MariTEL") and Mobex Network Services, LLC ("Mobex") to provide additional flexibility for VHF Public Coast (VPC) and Automated Maritime Telecommunications System ("AMTS") station licensees.

The Coast Guard commends the Commission for reiterating the agency's commitment to the Maritime Services in order to promote the safety of life and property at sea and on inland waterways. The Coast Guard also appreciates the Commission's recognition that it is essential there remain adequate, available, internationally-interoperable VHF spectrum to meet the needs of maritime safety and security. The Coast Guard agrees that MariTEL's broader rule change proposals, as described in the Notice of Proposed Rule Making -- to permit VPC licensees to essentially choose whether or not to comply with various regulatory obligations required by Part 80 -- would certainly be contrary to the public interest and would undermine the essential purposes of the Maritime Services. Finally, the Coast Guard supports the Commission's proposal to align authorized VPC channel usage with that specified by the International Telecommunications Union ("ITU") at Appendix 18 of the ITU Radio Regulations which authorize operations in single and two channel mode for port operations and ship movement services.

While the Coast Guard agrees with the majority of the Commission's proposal, for the reasons set forth more fully below, the Coast Guard strongly disagrees with the proposal to delete the "public correspondence" requirement from § 80.123 of the rules applicable to VPC stations as this could, contrary to the Commission's stated intentions, cause a *de facto* reallocation of the spectrum for private land mobile use and could potentially deprive the maritime community and industry of internationally-interoperable VHF frequencies allocated for maritime use.

PUBLIC CORRESPONDENCE

At paragraph 8 of the Notice, the Commission stated its agreement with Mobex and MariTEL that “prohibiting VPC and AMTS licensees from providing private correspondence to mobile units on land appears to conflict with the Commission’s goal of providing CMRS licensees with optimal operational flexibility in utilizing their authorized spectrum.” The Commission therefore proposed that the “public correspondence” requirement be deleted from § 80.123 and that the “ship-related” requirement be deleted from § 80.475(c) in order to allow VPC and AMTS licensees to provide private land mobile services.

The Coast Guard does not object to the proposal affecting AMTS service, especially because that allocation is not recognized internationally. The Coast Guard strongly objects, however, to the proposal to delete the “public correspondence” provision from the VPC requirements at § 80.123. The VPC channels are, as recognized by the Commission, allocated internationally and therefore affect every radio-equipped U.S. and foreign vessel operating in our waters. On the one hand, the FCC had previously amended its rules to allow VPCs to offer mobile units on land public correspondence services ancillary to maritime users of the same service. This was done in order to provide a large enough VPC customer base to ensure that VPC service to mariners was reliable and available at a reasonable cost. That change had merit and benefited the maritime community. On the other hand, the current proposal to delete “public correspondence” from § 80.123 is a significant departure from the original intent of this provision as it would allow use of the channels to be essentially reallocated from use by the maritime community. The proposed use would be incompatible with VHF maritime use, and otherwise not intended for use by the maritime community.

Notwithstanding the foregoing discussion, the Coast Guard recognizes that there are only a small number of VPC licensees, and that the Commission is attempting to provide for the economic viability and competitiveness of these licensees. The Coast Guard endorses this notion because the services provided by VPC stations are critically important to the maritime community. However, the flexibility provided to the VPC licensees must not be so extensive that it undermines the essential purpose of the Maritime Services. The Coast Guard’s interest is to ensure that the maritime community has sufficient interoperable spectrum needed for the safe operation of all shipping, foreign and domestic, commercial and non-commercial, in U.S. waters.

In order to provide additional flexibility, and not undermine the purpose of the service, the Coast Guard would acquiesce to the proposed amendment of § 80.123 if the Commission placed some restrictions on its use. For example, VPC licensees in areas more than 100 miles from navigable waterways could provide services other than public correspondence to land mobile stations. In addition, in areas within 100 miles of navigable waterways, other than public correspondence could be allowed provided that a certain percentage of the VPC’s business or customer base, *e.g.*, fifty percent (50%), is for maritime customer service. Under this proposal, the original intent of these regulations could be retained without effectively reallocating the spectrum from the maritime service. The Coast Guard believes this would meet the intent of the Commission’s proposal in this proceeding without adversely affecting spectrum or services available to the maritime community necessary for their safe operation.

The approach suggested by the Coast Guard still leaves open issues raised by the Commission, namely: (1) how can VPC licensees ensure that priority will always be given to maritime communications; and, (2) how can VPC licensees “technically and practically serve both maritime and land mobile interests in areas near navigable waterways...where maritime and land mobile users may utilize different equipment” (Notice ¶ 8). In order to ensure the core purposes of the Maritime Services to protect the safety of life and property at sea and on inland waterways, it is essential that these issues be satisfactorily resolved.

Unless the questions of priority and compatibility can be satisfactorily answered for a given application under the proposed rule changes, the Coast Guard would oppose use of that application. Rather than establishing a standard which could prove inflexible and expensive for VPC licensees, the Coast Guard recommends that, where private land mobile use is proposed by a VPC, the licensee be required to submit a plan to the Commission describing how the licensee will ensure that priority will always be given to maritime communications, and how the licensee will accommodate the utilization of maritime and land mobile equipment. The Commission should then review the proposal and only if it is found satisfactory should the VPC licensee be authorized to provide the requested service.

PART 80 REGULATION

The FCC also sought comment on its tentative conclusion that permitting “VPC licenses in certain instances to be governed by rule sections other than Part 80 is inappropriate and unnecessary” (Notice ¶13). The Coast Guard agrees and strongly supports the Commission’s tentative conclusion. As the Commission noted, “We recognize that upwards of ten million U.S. and foreign mariners in American waters have radios that operate in this spectrum, and we further recognize the importance of ensuring that there remains an adequate, available internationally-interoperable spectrum to the American maritime public to meet their common needs, and for the purposes of safety security” (*id.*). This spectrum is the only available, internationally-interoperable maritime spectrum remaining in the United States above 26 MHz. It represents the only resource available to meet both the present and the future technological and communications needs of the maritime community where interoperability with international shipping and domestic entities (*e.g.*, ships, tugs, port authorities, marine exchanges, etc.) is needed. Accordingly, this spectrum must not be reallocated, and must be protected and kept available for its intended use – Maritime Services.

While outside the scope of this rule making, the Coast Guard would like to provide some examples, in addition to the ship movement service spectrum requirements discussed below, where additional maritime spectrum may be necessary for future uses:

- a) Homeland Security and Public Safety Interoperability. There is no spectrum designated for interoperability among vessels and first responder public safety entities.¹ Even aside from nationwide requirements resulting from September , the

¹ There is a recognized lack of coordination among first responder agencies. To be prepared for future emergencies, different first responder agencies within each city must be fully coordinated -- this requires unified command that comprehensively deploys all first responder resources. See *The 9/11 Commission Report, Final Report of the National Commission on Terrorist Attacks Upon the United States* (Official Government Edition) at pp. 321-322.

radiocommunications interoperability needs resulting from natural disasters and transportation incidents (e.g., the Air Florida crash of Flight 90 into the Potomac River) remain to be fully addressed.

- b) **Use of Duplex Repeaters for Public and Maritime Safety.** Although duplex repeaters are allowed in the maritime band by the ITU and in countries outside the United States, and these repeaters are often used for public safety purposes within the United States, they can only be used by the U.S. maritime service within the VPC spectrum. Use of repeaters for such purposes as Vessel Traffic Services or public/maritime safety interoperability can ensure that those radios with weak signals can be heard clearly and distinctly by all users.²
- c) **Recreational Boaters.** At the ITU 1983 World Radio Conference, channel 70, one of only two dedicated non-commercial channels available in the United States, was reallocated for digital selective calling. It was never replaced.
- d) **Commercial Fishing Vessels.** Commercial fishing vessel operations constantly overlap onto channels used by other port operations, where use must be shared with shipping and other maritime operations.
- e) **Alternate AIS Channels.** Although allocation of the two primary channels for AIS, AIS 1 and AIS 2, are being dealt with in a separate proceeding, no alternative AIS channels exist in cases of congestion, or for avoiding problems caused by short-term or long term interference on primary AIS channels, or for a means of improving high altitude detection of shipping outside U.S. coastal shipping lanes. AIS is designed to operate on “B” channels (those above 160 MHz) to avoid being jammed by VHF radiotelephones, and Class B AIS devices are only expected to be capable of operation on “B” channels, once development of those devices are completed.

Figure 1 below represents the existing VHF maritime spectrum as allocated by the ITU Radio Regulations Appendix 18, which is used by upwards of 10 million VHF maritime radio users in or near the United States. The three “A” blocks represent internationally-allocated spectrum lost to the U.S. maritime community – these blocks were allocated to Part 90 services 30-40 years ago. The two “C” blocks represent the VPC spectrum being addressed in this proceeding. Except for some limited use on channel 20 (the vertical dotted line), this VPC spectrum also represents the only duplex spectrum available to the maritime community. The single “B” block represents the whole of the spectrum left to the maritime community, for use by all commercial maritime interests, recreational boaters, port operations, ship movement, intership operations and safety, marine information broadcasts, navigation safety, digital selective calling and distress and safety. There is no other internationally-allocated maritime spectrum above 26 MHz available for maritime use in the United States. Reallocating or impeding the “C” block VPC spectrum

² The need for repeaters in emergency situations was recognized by the 9/11 Commission, see *The 9/11 Commission Report, Final Report of the National Commission on Terrorist Attacks Upon the United States* (Official Government Edition) at pp. 322 -323.

from the maritime community would have a devastating impact on the future of United States maritime safety, commerce and security.

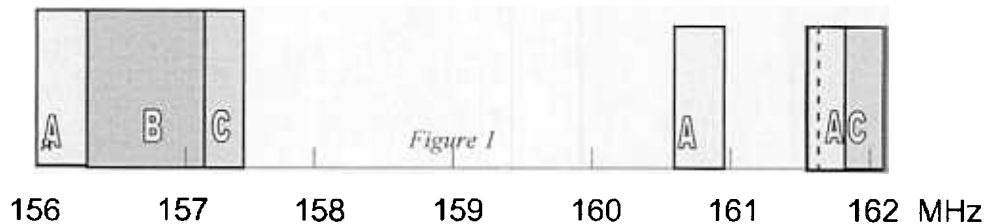


Figure 1

ALIGNMENT WITH ITU RR APPENDIX 18

The FCC sought comment on whether it “should align our allocation of this spectrum with that of the ITU with respect to use of the spectrum for port operations and ship movement services, in the interest of promoting compatibility with international shipping and increased flexibility” (Notice ¶ 14). This alignment is imperative. This type of alignment has generally been the U.S. government position for over 30 years.³ There has been a continuing and growing need for spectrum to meet the demands of port operations and increased ship movements. As new vessel traffic services have been established and traffic volume at existing locations has grown, VTS operations channels have come from and will continue to come from this service. Pilots and ancillary services in an increasing number of ports have documented the need for additional spectrum in this service.⁴ As the United States becomes increasingly dependent upon commerce flowing in and out of our ports and waterways, and the maintenance of security within those ports and waterways becomes an increasingly vital component of our own homeland security, ensuring adequate internationally-interoperable spectrum in the port operations and ship movement service will remain an essential component of America’s requirement for homeland security, safety and commerce.

³ The US position to the 1974 International Telecommunications Union World Administrative Radio Conference regarding these maritime VHF channels was that “the IRAC/FCC long range plan is to return all Appendix 18 channels to the maritime mobile service.” Preparation for the ITU World Administrative Radio Conference for Maritime Mobile Telecommunications to be Convened April 22, 1974, *Second Report*, Docket 19325, 43 F.C.C. 2d 433 (1973).

⁴ See Letter to USCG from Captain William A Brock, Puget Sound Pilots, Feb. 1, 2004; see also Amendment of Parts 0, 80, and 90 of the Commission’s Rules to Make the Frequency 156.250 MHz Available for Port Operations Purposes in Los Angeles and Long Beach, *Notice of Proposed Rule Making and Order*, WT Docket No. 99-332, 14 F.C.C. Rcd 19,830 (1999).

CONCLUSION

The Coast Guard is pleased to have this opportunity to submit its Comments and urges the Commission to take further action in this proceeding consistent with the views expressed herein.

Sincerely,

A handwritten signature in cursive script, appearing to read "J Hersey Jr".

JOSEPH D. HERSEY, JR.
Chief, Spectrum Management Division
By Direction of the Commandant